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# Probing Government Leaks an Unrewarding Task

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One day recently, Robert L. Keuch, a Justice Department expert on intelligence matters, started an investigation of a leak about a leak investigation. He's not holding his breath waiting to find the culprit because he knows leakers are seldom caught and even less often punished. But his action was understandable to a lot of frustrated keepers of the nation's secrets who tire of reading them in the morning papers. For a story saying that the government has begun a criminal investigation about a leak of classified information tends to confirm the accuracy of the original leak.

Last month, for instance, The New York Times reported that Justice had been asked by Adm. Stansfield Turner, the director of the Central Intelligence Agency, to find who leaked a story that the United States planned to use a listening post in Norway to help verify Soviet compliance with the new strategic arms limitation treaty (SALT II).

This month, Justice was called on again, this time to find out who leaked a classified Senate report about the activities of agents from friendly foreign powers in this country to columnist Jack Anderson and The Washington Post.

Leakers are as much a part of Washington as cherry blossoms and the Redskins, and newspaper reporters await them with ready typewriters.

It's when the leaks are of classified material that members of the intelligence community join the fray. But their anger and pursuit are almost always choked off by their own special Catch 22: even if the leaker is caught,

the aggrieved agency doesn't want to declassify the information for a trial.

In addition, a 1971 CIA study found the leaker is often a "high administration official" feeding the information to a reporter to push his policy objective.

Justice Department and FBI officials often feel they're on fools' errands chasing leaks. Access to the document may be so broad it's practically impossible to pinpoint the leak source. Then there's the agency's understandable reluctance to declassify.

And if all the thresholds are passed, the only tool for prosecution is the same espionage statute used to punish spies who sell secrets to hostile governments.

Because of these kinds of problems, Philip B. Heymann, head of the criminal division at Justice, is considering proposing changes in the law to allow lesser penalties for those who leak to reporters than for those who pass secrets to foreign powers.

In an interview last week, Heymann emphasized that his idea is very tentative. "We certainly need to have enough information in the public domain to allow for a healthy debate of important foreign policy issues," he said. "But you can't open your files to other countries. You have to have national secrets."

Heymann said he recognizes that someone who leaks information to a reporter certainly doesn't have the same harmful intent as an enemy spy.

Keuch pointed out that the possible harm to the national defense may be just as great, though. He noted that a Navy man is serving up to 25 years in prison for selling to a foreign power some radar manuals that probably are far less damaging than the Norway disclosure.

About 12 to 15 leak investigations

are referred to the Justice Department each year, Keuch said. But less than one-third ever lead to an FBI field check because the intelligence agencies say distribution was too broad to trace the leak or declassification would be too harmful.

Damage from leaks similar to those surrounding the debate on SALT II is likely to escalate in the future because of the increasing sophistication of U.S. weapons and surveillance systems in general, Keuch estimates. "The price tag on a national security leak is a lot higher than it was 15 years ago," he said.

But the likelihood of finding the leaker isn't getting any greater. Justice and FBI officials acknowledge. The only leak prosecution in memory was of Daniel Ellsberg, who gave the Pentagon Papers on the Vietnam war to The New York Times and The Washington Post.

He was charged under the espionage statutes, but the case was thrown out by the judge because of revelations about illegal wiretaps by the White House.

Justice and the FBI are now going through the painstaking business of checking on the Norway and foreign agent leaks.

Most officials admit privately that Ellsberg's record looks safe.